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June 15, 2026

Carolyn J. Scruggs
Secretary
Department of Public Safety and Correctional Services

Dear Secretary Scruggs:

Section 5-104 of the Criminal Procedure Article, as amended by the Community Trust Act of 2026 (the "Act"),[1] states that a law enforcement agent performing regular police functions may not "provide federal immigration authorities with information about an individual obtained in the course of the law enforcement agent's duties unless required by a valid court order." Md. Code Ann., Crim. Proc. ("CP") § 5-104(b)(v). You ask three questions about this new prohibition:

(1) Which entities are considered "federal immigration authorities" under it?

(2) Does it prohibit State and local law enforcement officers from supplying federal immigration authorities with information for criminal investigations?

(3) Does it cover communications made in the context of a task force whose primary purpose is criminal investigation or enforcement?

Our answers, in brief, are as follows:

(1) The term "federal immigration authorities" refers primarily to Immigration and Customs Enforcement ("ICE"), Customs and Border Protection ("CBP"), and the United States Citizenship and Immigration Services ("USCIS"). Other federal agencies may also fall within the term if they have an immigration enforcement mission. But ICE, CBP, and USCIS are the primary agencies covered by the term and the most likely to interact with Maryland law enforcement agents.

[1] 2026 Md. Laws, ch. 872.

(2) Although the question is close, we do not think the Act was intended to prohibit information sharing for actual criminal investigations. The Act's language, when read in context, is ambiguous on this question. But the legislative history and the practical consequences of the competing interpretations favor reading the Act not to restrict communications that pertain to criminal investigations. State and local officers will have to take precautions, however, to make sure that they do not mistake deportation or removal matters—which are always civil in nature—for criminal matters.

(3) Except perhaps in some cases where a Maryland officer has been deputized as a federal agent, the new prohibition applies to Maryland officers serving on a joint federal-State task force. However, in this context as in others, the prohibition does not restrict information-sharing with federal counterparts for criminal investigations. Still, if ICE, CBP, or UCSIS officials are on the task force, the statute does prohibit State and local officers from sharing information with those agents for other purposes.

We explain our reasoning in more depth below.

I. Meaning of "Federal Immigration Authorities"

Section 5-104 does not define the term "federal immigration authorities," which appeared in the statute even before the Act amended it. *See* 2026 Md. Laws, ch. 872 (restating existing provisions of § 5-104(b)). By its natural meaning, the phrase refers to those federal agencies that focus on the enforcement of the Immigration and Nationality Act and other federal immigration laws. Most trust act laws in other states tend to define similar terms this way.[2] And the legislative history of the Act supports this natural reading. *See* Senate Floor Proceedings No. 62, 2026 Leg., Reg. Sess., at 3:04:58 – 3:06:19 (Apr. 10, 2026) ("Senate Floor Debate (2d Reader)") (statement of Sen. Smith, Floor Leader, explaining that the term includes a federal agency only if its "mission is immigration enforcement" and clarifying that component agencies within the Department of Homeland Security do not meet that standard unless they focus on immigration work).

[2] *E.g.*, Conn. Gen. Stat. Ann. § 54-192h(a)(4) (Connecticut Trust Act) ("'Federal immigration authority' means any officer, employee or other person otherwise paid by or acting as an agent of [Immigration and Customs Enforcement] or any division thereof or any officer, employee or other person otherwise paid by or acting as an agent of the United States Department of Homeland Security or any successor agency thereto who is charged with enforcement of the civil provisions of the [INA]."); 5 Ill. Comp. Stat. Ann. 805/10 (Illinois Trust Act) ("'Immigration agent'" means an agent of federal Immigration and Customs Enforcement, federal Customs and Border Protection, or any similar or successor agency."). *But see* Cal. Gov. Code § 7284.4(c) (Cal. Trust Act) ("'Immigration authority' means any federal, state, or local officer, employee, or person *performing immigration enforcement functions.*" (emphasis added)).

The text and legislative history therefore make clear that the term "federal immigration authority," as used in the Act's amendment to § 5-104, turns upon the mission of the federal entity in question, not on the nature of a given interaction or information request. *See id.* To fall within the term, a federal entity must have an immigration enforcement mission. *Id.* Indeed, where the General Assembly has wanted to prohibit cooperation in immigration enforcement based on the nature of the request rather than the nature of the federal entity involved, it has used different language. *See* Md. Code Ann., Gen. Prov. ("GP") § 4-320.1(b) (prohibiting warrantless disclosure of personal information contained in public records to "any federal agency seeking access for the purpose of enforcing federal immigration law").

The core examples of "federal immigration authorities" are the three component agencies of the Department of Homeland Security that bear primary responsibility for administering the immigration laws: ICE, CBP, and USCIS. *See Mestanek v. Jaddou*, 93 F.4th 164, 170-171 (4th Cir. 2024) (explaining that the Homeland Security Act of 2002 transferred the functions of the legacy Immigration and Naturalization Service to these three agencies); *A.B.-B. v. Morgan*, 548 F. Supp. 3d 209, 213 (D.D.C. 2020) (similar). Because the immigration bureaucracy is diffuse, some other federal agencies may also constitute "federal immigration authorities" for these purposes. *See, e.g.*, *Jama v. U.S. Citizenship & Immigr. Servs.*, 962 F. Supp. 2d 939, 959 (N.D. Ohio 2013) ("Five executive branch departments currently have responsibilities relating to immigration."), *aff'd sub nom. Jama v. Dep't of Homeland Sec.*, 760 F.3d 490 (6th Cir. 2014). But ICE, CBP, and USCIS are the primary federal agencies encompassed by the phrase and the agencies most likely to interact with Maryland law enforcement agents about immigration matters.

These three agencies do some criminal work. The removal of noncitizens from the United States is a "civil, not criminal, matter." *Arizona v. United States*, 567 U.S. 387, 396 (2012). But federal immigration statutes also contain some criminal prohibitions. *E.g.*, 8 U.S.C. § 1325 (illegal entry); *see also Santos v. Frederick County Bd. of Comm'rs*, 725 F.3d 451, 466 (4th Cir. 2013) (discussing federal criminal statutes that prohibit immigration-related crimes, such as "using a false or fraudulent immigration identification card"); *see generally* Michael John Garcia, Cong. Rsch. Serv., LSB11436, *Immigration-Related Crimes* at 1 (2026). Immigration enforcement therefore has a criminal component, even though it is predominantly civil in nature. *See, e.g.*, *Arizona*, 567 U.S. at 397 (discussing ICE's investigations of immigration crimes). In addition, ICE and CBP investigate transnational crime such as drug smuggling and human trafficking.[3] A restriction on cooperation with "federal immigration authorities"

[3] *See* 6 U.S.C. § 211(c)(5) & (8) (requiring CBP to "enforce and administer all immigration laws" in coordination with ICE and USCIS, but also requiring it to "detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States"); ICE, Homeland Security Investigations, *Our Mission-What We Do, How We Do It* ("HSI conducts federal criminal

therefore has the potential to implicate cooperation on criminal matters. This possibility gives rise to your next question.

II. Application to Criminal Investigations

With this meaning of "federal immigration authorities" in mind, we consider whether the new prohibition in § 5-104 restricts State and local officers from providing ICE or other federal immigration authorities information for criminal investigations.[4] (For brevity, we will use "ICE" as a shorthand for federal immigration authorities in this analysis.)

The analysis begins with the plain language of the Act's amendment to § 5-104 and the surrounding context. *See Williams v. State*, 492 Md. 295, 306-08 (2025). We find the statutory text ambiguous on this question. The analogous trust act laws of other states explicitly address the extent to which their prohibitions reach cooperation with immigration authorities on criminal investigations.[5] But the Community Trust Act amendment to § 5-104 does not mention criminal matters at all.

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investigations into the illegal movement of people, goods, money, contraband, weapons and sensitive technology into, out of and through the United States."), https://www.ice.gov/hsi/who-we-are#mission (last visited May 22, 2026); Press Release, CBP, Federal, State, and Local Agencies Join Forces to Intercept International-Bound Stolen Vehicles at the Port of Baltimore (Aug. 31, 2023), https://www.cbp.gov/newsroom/local-media-release/federal-state-and-local-agencies-join-forces-intercept-international#:~:text=Steven%20Wachstein%20is%20the%20Acting%20Assistant%20Area,weeds%20and%20pests%2C%20and%20other%20illicit%20products.

[4] The new prohibition, like the rest of § 5-104, does not apply to corrections officers; it is relevant only to State and local law enforcement officers working outside of jails and prisons. *See* CP § 5-104(a)(6).

[5] California's law exempts all criminal enforcement from its prohibitions, except for some immigration-related crimes. Cal. Gov. Code § 7284.4(f) (defining 'immigration enforcement' to "include[] any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any *federal civil immigration law*, and also . . . any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.") (emphasis added); § 7284.6(b) (additionally exempting some illegal reentry crimes and criminal task force work). Illinois and New Jersey exempt criminal investigations entirely. 5 Ill. Comp. Stat. Ann. 805/15 (Illinois Trust Act) ("Nothing in this Section shall preclude a law enforcement official from otherwise executing that official's duties in investigating violations of criminal law and cooperating in such investigations with federal and other law enforcement agencies (including criminal investigations conducted by federal Homeland Security Investigations (HSI)) in order to ensure public safety."); New Jersey Office of the Attorney General, Law Enforcement Directive No. 2018-6 at 3 (Sept. 27, 2019 Rev.) (prohibiting "assistance to federal immigration authorities when the sole purpose of that

When read in isolation, the new prohibition could be taken to apply to *any* sharing with ICE of "information about an individual obtained in the course of [a] law enforcement agent's duties," CP § 5-104(b)(v), regardless of whether the underlying matter is criminal or civil. After all, the prohibition itself does not make an exception for criminal investigations. *Id.* It makes an exception only for situations where "a valid court order" requires the information sharing. *Id*. The very next subpart in § 5-104 underscores this point: it safeguards a law enforcement agent's ability to "*inquir[e]* about any information that is material to a criminal investigation," CP § 5-104(b)(3) (emphasis added), but it does not say that State and local officers may *provide* information to federal immigration authorities in such circumstances.

But the new prohibition becomes less clear when read in the context of the rest of § 5-104. *See Lockshin v. Semsker*, 412 Md. 257, 276 (2010) ("[T]he plain [statutory] language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute."). Indeed, statutory language may be "clear and unambiguous when viewed in isolation, but become ambiguous when read as part of a larger statutory scheme." *Williams*, 492 Md. at 307-08. Here, a different part of the statute, which predates the Act, prohibits State and local officers from detaining a person for a "civil immigration violation" but not a criminal immigration matter. CP § 5-104(b)(2)(ii)(2). As a result, the Maryland Police Training and Standards Commission ("MPTSC") and the Office of the Attorney General ("OAG") have both advised that State and local officers may, in fact, make an arrest where ICE has obtained a judicial warrant for a criminal immigration violation. *See* MPTSC, Guidance for Law Enforcement on Immigration Administrative Warrants at 2 ("MPTSC Guidance") ("Upon confirmation of the criminal warrant, the individual should be arrested and processed per departmental policies.");[6] Guidance Memorandum, OAG, *Local Enforcement of Federal Immigration Law: Legal Guidance for Maryland State and Local Law Enforcement Officials* at 4 (Apr. 2025) ("OAG Guidance") ("Even in the unusual case where an ICE hit appears to correspond to a judicial warrant for criminal charges, officers should not make an arrest based on the hit without first confirming the warrant information.").[7]

This aspect of § 5-104 raises questions about the reach of the new prohibition on information sharing. Because the statute, even as amended, does not prohibit law enforcement officers from arresting the subject of a criminal warrant that ICE has obtained from a court, there is reason to doubt that the General Assembly intended the

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assistance is to enforce *federal civil immigration law*" (emphasis added)), *available at* https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2018-6_v2.pdf.

[6] https://mpctc.dpscs.maryland.gov/pdf/PTSC%20Immigration%20Administrative%20Warrants%20Guidance.pdf (last visited June 11, 2026).

[7] https://oag.maryland.gov/FederalActionsResponse/Documents/pdfs/2025_Law_Enforcement_Guidance_Memorandum.pdf.

new restriction to prohibit agents from contacting ICE before making such an arrest. Indeed, both the MPTSC and OAG guidance tell officers that they *must* call ICE to confirm the criminal nature of the warrant and ensure that they do not inadvertently detain someone for a civil violation. *See* MPTSC Guidance at 2; OAG Guidance at 4. Similarly, after State or local officers make such an arrest, there is reason to question whether the General Assembly intended to prohibit them from contacting the federal agency that obtained the judicial arrest warrant. *See* MPTSC Guidance at 4 (sample criminal warrant with ICE contact information).

More broadly, this aspect of § 5-104 raises the question whether the General Assembly would have wanted to allow officers to arrest someone for a criminal immigration violation but at the same time prohibit them from responding to an ICE-HSI or CBP inquiry about a drug trafficking or human trafficking case. *See supra* note 3 (discussing the involvement of these agencies in such investigations). Even though the new prohibition on providing information to ICE that the Act adds to the statute does not itself exempt criminal investigations, it may well be that the General Assembly intended the distinction between civil and criminal matters drawn in other parts of the statute—the prohibition on arrests for *civil* violations, and the blanket exception for "inquiries" into criminal matters—to bear on the new prohibition as well. *See Williams*, 492 Md. at 307-08.

These questions create ambiguities that warrant consideration of other indicators of legislative intent, beyond the text, to determine whether the General Assembly intended the new prohibition to apply to criminal matters. *See Lockshin*, 412 Md. at 276 (noting that courts, in resolving ambiguities, consider "the history of the legislation" along with "the structure of the statute, how it relates to other laws, its general purpose, and the relative rationality and legal effect of various competing constructions."). Two such indicators in particular—the legislative history and the consequences of the competing interpretations—convince us that the Legislature did not intend this result.

Starting with the legislative history of the Act, it contains significant discussion of this issue. The floor leaders for the bill pronounced flatly and repeatedly during debates in both chambers that the bill would not prohibit cooperation with federal agencies on their criminal investigations. In the House, one of the floor leaders declared that the bill "does not impact investigations of crimes. Human trafficking, terrorism, all those things, this has no impact on. . . . Nothing that we're talking about impacts criminal investigation by federal enforcement." *See* House Floor Proceedings No. 65, 2026 Leg., Reg. Sess., at 2:29:20 to 2:30:22 (Apr. 11, 2026) ("House Floor Debate (2d Reader)") (statement of Del. Embry). Even more conclusively, in the Senate, the floor leader addressed the bill's amendment to § 5-104 specifically and its impact on law enforcement agents in the field:

> This bill pertains to immigration detainers. If there's a judicial warrant . . . it does not impede any of that. If you pull someone over, run the plates, and there's a warrant out for

> that person's arrest, this bill does not touch any of that. . . . For law enforcement purposes, this bill does not touch or interfere with that at all.

Senate Floor Debate (2d Reader) at 2:54:00 to 2:54:48 (statement of Sen. Smith); *see also id*. at 2:56:38 to 2:57:13 (Sen. Smith) ("If it involves a criminal activity, [the bill] does not touch that. . . . This bill does not touch or put any barrier on communications to solve crime."); *id*. at 4:01:58 to 4:02:12 (Sen. Smith) ("Criminal offenses, crimes—that's carved out of this bill. You are able to communicate with law enforcement to investigate criminal activity and criminal enterprises.").

The bill's sponsors and floor leaders further explained that, because the prohibition would not apply to criminal matters, it would have no impact on the ability of State and local law enforcement officers to engage in joint task force operations with federal agencies to investigate drug trafficking or other major crimes. *See* Senate Floor Debate (2d Reader) at 4:01:37 to 4:02:19 (statement of Sen. Smith) (explaining that, for this reason, it would be unnecessary to amend the bill to protect joint task force work); House Floor Proceedings No. 66, 2026 Leg., Reg. Sess., at 1:27:10 to 1:27:20 (statement of Del. Phillips, sponsor of cross-filed bill and floor leader) ("Nothing in this bill restricts participation in a joint task force."); *id*. at 1:27:55 to 1:28:23 (similar statement by Del. Phillips).

The statements of a bill's sponsors and floor leaders supply reliable evidence of legislative intent. *See Davis v. State*, 426 Md. 211, 231 n.7 (2012) ("We rely on the testimony of the bill sponsor in determining the legislative intent; especially where there were minimal amendments to the bill introduced after that testimony."); *In re K.K.*, 266 Md. App. 161, 192 (2025) ("Sponsor testimony, committee bill analyses, and committee floor reports 'are likely to be especially reliable evidence of the purpose or goal underlying a statute' because they 'reflect the views of those most likely to know something about the legislation and to whom other members, for a variety of reasons, tend to defer.'" (quoting scholarship)); *Johnson v. State*, 258 Md. App. 71, 100 (2023) (relying on statements of floor leader); 103 *Opinions of the Attorney General* 18, 39 (2018) ("[F]loor leaders and bill sponsors tend to know the details of their bills better than other members . . . ." (quoting scholarship)). And the statements here point in only one direction. The bill's sponsors and designated spokespeople in both chambers uniformly understood the bill to impose no prohibition on cooperation with federal criminal investigations.

One might argue that these statements could be read narrowly to mean only that the bill would allow communications with federal criminal agencies such as the FBI or that the bill would allow State and local officers to ask ICE only about State and local investigations. But the blanket nature of the statements cannot be squared with such a nuanced reading. That is especially true of Sen. Smith's statements, which were entirely focused on the § 5-104 amendment and not on the rest of the Community Trust Act

(which mainly concerned the corrections context). *See* 2026 Md. Laws, ch. 872. These statements make it clear that Sen. Smith—Senate floor leader for the bill and Chair of the Judicial Proceedings Committee, which shaped the legislation[8]—understood that the criminal nature of a matter would, by itself, take it outside the scope of the bill's amendment to § 5-104. *E.g.*, Senate Floor Debate (2d Reader) at 2:56:38 (Sen. Smith) ("If it involves a criminal activity, [the bill] does not touch that."). In addition, when one of the House floor leaders explained that the bill would not impact cooperation on federal criminal investigations, she specifically mentioned one type of federal criminal investigation commonly conducted by ICE and CBP—human trafficking. House Floor Debate (2d Reader) at 2:29:20 (statement of Del. Embry). This, too, convinces us that the General Assembly did not intend the bill to prohibit law enforcement agents from supplying information to ICE for *criminal* investigations.

This conclusion is bolstered by considering the consequences of an interpretation that would preclude police officers from sharing information with federal immigration authorities for criminal investigations—consequences that, based on the legislative history discussed above, we do not think the General Assembly would have intended. In statutory interpretation, courts consider "the relative rationality" and "the practical consequences" of competing constructions. *Harrison-Solomon v. Maryland*, 442 Md. 254, 265-66, 276 (2015). Limiting cooperation on criminal investigations with ICE and CBP would have far-reaching consequences. State and local law enforcement agencies collaborate routinely with ICE and CBP on major investigations into, among other things, criminal smuggling and trafficking networks. *E.g.*, Press Release, Drug Enforcement Administration, *Maryland U.S. Attorney Announces Hundreds of Arrests Connected to Joint Federal-State Targeted Baltimore Criminal Enforcement Operation* (Feb. 19, 2026) (noting cooperation between Maryland agencies, ICE-HSI, and CBP);[9] Press Release, CBP, *Federal, State, and Local Agencies Join Forces to Intercept International-Bound Stolen Vehicles at the Port of Baltimore* (Aug. 31, 2023) (similar).[10] We are told that much of this collaboration occurs through joint task force operations.

If the General Assembly intended to end these practices by prohibiting State and local officers from supplying information to ICE or CBP for criminal smuggling and trafficking investigations, one would expect to see that significant policy choice discussed and explained in the legislative record. In other words, the legislative history would most likely reveal *why* the Legislature brought about this crucial change in law enforcement policy. *See Roman Catholic Archbishop of Washington v. Doe*, 489 Md.

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[8] *See* Amend. No. 973824/1, S.B. 791, 2026 Leg., Reg. Sess.

[9] https://www.dea.gov/press-releases/2026/02/19/maryland-us-attorney-announces-hundreds-arrests-connected-joint-federal.

[10] https://www.cbp.gov/newsroom/local-media-release/federal-state-and-local-agencies-join-forces-intercept-international#:~:text=Steven%20Wachstein%20is%20the%20Acting%20Assistant%20Area,weeds%20and%20pests%2C%20and%20other%20illicit%20products.

514, 566 (2025) ("[I]t is quite odd that the legislative record would contain nearly no discussion of" the enactment of a significant new policy.) But here, the legislative history does not do this. Instead, as we have explained, it suggests that the Legislature did not intend the Act to trigger these consequences. Rather than impute that intention to the Legislature based on the ambiguous text alone, we think it more rational to interpret the Act as not prohibiting law enforcement agents from supplying information to federal immigration authorities to support a criminal investigation. *See In re Smart Energy Holdings, LLC*, 486 Md. 502, 554 (2024) ("It has been called a golden rule of statutory interpretation that, when one of several possible interpretations produces an unreasonable result, that is a reason for rejecting that interpretation in favor of another which would produce a reasonable result." (internal quotations omitted)); *Haas v. Lockheed Martin Corp.*, 396 Md. 469, 493 (2007) ("[C]onfronted with ambiguity regarding legislative intent, it is our duty to announce a rule that we are convinced is best supported by sound jurisprudential policy germane to the pursuit of legislative intent.").

That is not to say that it would have been completely irrational to prohibit communications with ICE even with respect to criminal investigations. State and local officers working in the field have faced challenges in determining when an ICE inquiry concerns a criminal as opposed to civil investigation, partly because ICE sometimes shrouds inquiries about people wanted for removal (a civil matter) in language that sounds criminal in nature. *See* MPTSC Guidance at 1. An officer working in the field who fails to parse this distinction risks violating § 5-104's preexisting prohibitions on enforcing civil immigration law or even committing a Fourth Amendment violation. *See id*.; *Santos*, 725 F.3d at 467 (examining an incident in which the failure of Frederick County officers to distinguish between "a criminal or civil immigration violation" in an ICE database record led them to apprehend a noncitizen without probable cause, in violation of the Fourth Amendment). The Legislature might theoretically have decided to mitigate the risks of illegal civil enforcement actions by prohibiting State and local officers from contacting ICE at all while performing "regular police functions." *See* CP § 5-104(b)(2). But that does not appear to have been the intent based on the clear legislative history and the far-reaching consequences that prohibiting cooperation in criminal matters would trigger.

Of course, in reaching this interpretation of the statute, we recognize that it contains an explicit exception for criminal investigations that only covers *inquiries* by State and local officers. CP § 5-104(b)(3). However, in light of the legislative history and the relative rationality of the available interpretations, we think the General Assembly understood this exception to support the broader point that the § 5-104 prohibitions do not apply to criminal investigations. In fact, Senator Smith pointed to this provision specifically to explain why the bill would not prohibit State and local officers from cooperating with federal immigration agents on a joint criminal investigation. *See* Senate Floor Debate (2d Reader) at 4:05:56 to 4:06:09.

Finally, the broader context of the Community Trust Act also supports our interpretation. Aside from the amendment to § 5-104, the rest of the Act mostly addresses the extent to which State and local officials may expend resources on facilitating the civil removal of a noncitizen from the United States. *See* 2026 Md. Laws, ch. 872. Notably, the Act prohibits local correctional facilities from prolonging a person's detention based on a "civil immigration violation" and allows such facilities to transfer any person to ICE when presented with a "valid judicial warrant," *see id*. (adding Corr. Servs. § 8-805 (b)(2)-(3)), which essentially works to carve out situations where the person is wanted for a crime, *see, e.g.*, *United States v. Santos-Portillo*, 997 F.3d 159, 163-64 (4th Cir. 2021) (distinguishing the administrative warrants used in civil immigration matters from judicial arrest warrants). The Act's amendment to § 5-104 would be an outlier in this regard if it restricted cooperation on criminal investigations. We think it much more plausible that the General Assembly intended this amendment to align with the rest of the bill by prohibiting law enforcement agents from diverting time and resources toward supporting ICE's civil removal operations.

Among other things, this interpretation works in tandem with the rest of the Community Trust Act by preventing officers in the field from subverting the restrictions on local correctional facilities by contacting ICE about a removable noncitizen who has not been convicted of a crime. *See* 2026 Md. Laws, ch. 872 (adding Corr. Servs. § 8-805(b)(2)(iii) to prohibit local correctional facilities from notifying "federal immigration authorities that a[] [non-convicted] individual is in custody unless required by a valid court order or judicial warrant"). In other words, the § 5-104 amendment closes a potential loophole in the corrections provisions that make up most of the Act. And while State law already prohibits officers from disclosing "personal information" contained in public records to ICE for civil enforcement purposes, *see* GP § 4-320.1, the new amendment more broadly prohibits officers from supplying ICE with information "obtained in the course of the [officer's] duties" for these purposes, including information that may not constitute "personal information" or that may not be contained in public records, such as a noncitizen's physical location, observed activities, or the fact that they have been detained. *See* GP § 4-101(h) (defining "personal information" to mean "information that identifies an individual").[11]

III. Implications for State and Local Law Enforcement, Including when Serving on a Joint Task Force

For the above reasons, we think that the Community Trust Act amendment to § 5-104 does not prohibit law enforcement agents from supplying ICE with information for a

[11] We also note that, as OAG interprets § 5-104(b)(v), it does not prohibit Maryland law enforcement officers from sharing a person's citizenship or immigration status information with ICE in the rare circumstances in which officers obtain that information. *See, e.g.,* OAG Guidance at 5 & n.19 (harmonizing other State laws restricting participation in civil immigration enforcement with 8 U.S.C. § 1373).

criminal investigation. It is important to understand, however, that this provision nonetheless has nuanced implications for State and local law enforcement.

First, to avoid violating the new prohibition, State and local officers must exercise extreme caution when communicating with ICE and other federal immigration agencies. The mission of ICE—and, in particular, of its Enforcement and Removal Operations directorate ("ICE-ERO")—focuses on removal and is therefore mostly civil in nature. *See Mercado v. Noem*, 800 F. Supp. 3d 526, 543 (S.D.N.Y. 2025); *Texas v. United States*, 524 F. Supp. 3d 598, 612 (S.D. Tex. 2021). Indeed, ICE-ERO often describes its removal operations in terminology common to criminal investigations. *See* MPTSC Guidance at 1. Maryland law enforcement agencies must therefore take operational measures to make sure that officers do not mistake civil removal matters for criminal investigations. Similar complications arose under preexisting law, which already prohibited Maryland officers from prolonging a person's detention for a civil immigration violation. *See* MPTSC Guidance at 1-2. But the Community Trust Act makes precautionary measures even more important by extending these prohibitions to cover information sharing. In particular, before disclosing information to ICE for a criminal investigation, Maryland officers must ascertain that ICE is actually investigating a crime (or assisting in a State or local investigation of a crime) and that the information to be shared actually matters to that criminal investigation. *See id.* at 2 (explaining that officers should confirm that a judicial warrant obtained by ICE is "both active and for a criminal offense" before taking further law enforcement action to assist ICE).

Second, Maryland officers must remember that, aside from CP § 5-104(b)(v), another law prohibits them from disclosing personal information from public records with *any* federal agency that seeks the information to enforce the civil immigration laws. *See* GP § 4-320.1; *see* Hearing on S.B. 234 Before the Senate Judicial Proceedings Comm., 2021 Leg., Reg. Sess., at 1 (Jan. 28., 2021) (written testimony of Sen. Lam (sponsor)) (declaring it unnecessary to distinguish between "criminal and civil immigration enforcement" in § 4-320.1 because "all immigration enforcement is civil"). Officers will now face layered restrictions on information-sharing with immigration agents. For example, the Community Trust Act amendment to § 5-104 does not apply to an inquiry from the FBI (because it is not a "federal immigration authority"), but GP § 4-320.1 may well apply, depending on the nature of the FBI's inquiry. Neither prohibition, however, restricts the sharing of information for a criminal investigation.

Third, State and local officers serving on a joint task force must recall that these layered prohibitions still apply to them, except perhaps where they have been deputized to act as federal officers. *See* Guidance Memorandum, OAG, *Guidance for Maryland Law Enforcement on the Requirements of Maryland Law When Working with Federal Law Enforcement Agencies* at 2 (Oct. 2025). On a joint task force, as in other contexts, the prohibitions do not restrict information sharing with federal counterparts for criminal investigations. But if ICE agents are on the task force, § 5-104(b)(v) does prohibit State

and local officers from sharing information obtained in the course of their regular police duties with those agents for other purposes, i.e., unless the information-sharing is for a criminal investigation. And State and local officers may not share personal information with any federal counterpart who seeks the information for civil enforcement purposes.

IV. Conclusion

For the reasons explained above, we think (1) the term "federal immigration authorities," as used in CP § 5-104(b)(v), refers primarily to ICE, CBP, and USCIS; and (2) that CP § 5-104(b)(v) should not be interpreted to restrict State and local law enforcement officers from sharing information with federal immigration authorities for criminal investigations, including in the joint task force context.

Sincerely,

Patrick B. Hughes
Chief, Opinions & Advice Division

Ben Harrington
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